United States District Court
For the Northern District of California

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3   UNITED STATES DISTRICT COURT

4   NORTHERN DISTRICT OF CALIFORNIA

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7   SANHO CORPORATION,

8   Plaintiff,   No. C 11-2473 PJH

9   v.   **ORDER**

10   CIMO TECHNOLOGIES, INC.,

11   Defendant.

12   _____/

13   On July 22, 2011, plaintiff Sanho Corporation ("Sanho") filed a request for entry of

14   default against defendant Cimo Technologies, Inc. ("Cimo"). Default was entered by the

15   clerk on July 26, 2011, and the notice of entry was filed on July 28, 2011. On October 21,

16   2011, Sanho filed a motion for default judgment. On October 26, 2011, the motion was

17   referred to Magistrate Judge Nandor J. Vadas, pursuant to Civil Local Rule 72-1, for a

18   report and recommendation.

19   On November 8, 2011, Cimo filed an opposition to the motion for default judgment,

20   in which it also requested that the court vacate the default, and dismiss the first amended

21   complaint for failure to state a claim and for lack of personal jurisdiction. On November 15,

22   2011, Sanho filed a motion to strike Cimo's opposition as untimely, and to also strike

23   Cimo's other motions. Sanho requested that its motion to strike be heard on shortened

24   time.

25   On November 18, 2011, Judge Vadas issued an order denying Cimo's motion to

26   vacate the default and motion to dismiss without prejudice, as improperly noticed, and also

27   denying Sanho's motion for an order shortening time as moot. Judge Vadas advised that

28   Cimo could "re-notice its motions as appropriate and pursuant to the Local Rules."

1   On November 29, 2011, Cimo filed a motion to vacate the clerk's entry of default,

2 and a motion to dismiss the first amended complaint. Cimo noticed the motions for hearing

3 before the undersigned on January 4, 2012.

4   The motion to vacate the default is hereby REFERRED to Judge Vadas, pursuant to

5 Local Rule 72-1, for a report and recommendation once the parties have been fully heard

6 on the motion. The motion to dismiss is DENIED without prejudice, as premature, as no

7 decision has yet been made on Cimo's motion to vacate the default.

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9 **IT IS SO ORDERED.**

10 Dated: December 1, 2011

11   PHYLLIS J. HAMILTON
                                      United States District Judge